



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2005

Ms. Susan Camp-Lee
Sheets & Crossfield
309 East Main Street
Round Rock, Texas 78664-5246

OR2005-00491

Dear Ms. Camp-Lee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 219761.

The City of Hutto (the "city"), which you represent, received a request for information related to the termination of an officer. You inform us that the city has released some of the requested information but claim that other requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Governmental code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that is made confidential by statute. Gov't Code § 552.101. Exhibit B consists of a Report of Separation of License Holder, or F-5. Section 1701.452 of the Occupations Code requires that a law enforcement agency submit this report to the Texas Commission on Law Enforcement regarding an officer licensed under chapter 1701 whose appointment with the law enforcement agency is terminated. *See* Occ. Code § 1701.452.

Section 1701.454 of the Occupations Code further provides, in relevant part, as follows:

- (a) A report or statement submitted to the [Texas Commission on Law Enforcement] under this subchapter is confidential and is not subject to disclosure under Chapter 552 of the Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

Occ. Code § 1701.454(a).

You state that the officer at issue was not terminated due to substantiated incidents of excessive force or violations of the law. Also, the submitted information indicates that this officer did not resign as a result of such incidents. Therefore, the city must withhold Exhibit B pursuant to section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: (1) release the public records; (2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or (3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/krl

Ref: ID# 219761

Enc. Submitted documents

c: Ms. Camille Wheeler
Staff Writer
Austin American Statesmen
Williamson County Bureau
203 East Main Street, Suite 102
Round Rock, Texas 78664
(w/o enclosures)